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10/761,364

01/22/2004

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EXAMINER

SHAW, PELING ANDY

ART UNIT

PAPER NUMBER

2444

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DELIVERY MODE

08/07/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | | |
|------------------------------|--------------------------------------|-----------------------------------|--|
| Office Action Summary | Application No. 10/761,364 | Applicant(s) ITO ET AL. | |
| | Examiner PELING A. SHAW | Art Unit 2444 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 May 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-39 is/are pending in the application.
- 4a) Of the above claim(s) 15-39 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>4/7/09</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Amendment received on 05/18/2009 has been entered into record. Claims 1-14 are amended. Claims 1-14 are currently examined.
2. The Office acknowledged the receipt of Applicant's restriction election amendment received on 11/24/2008. Applicant elected claims 1-14 to be examined.

Priority

3. This application claims priority on Japan 2003-057895 dated 03/05/2003, 2003-019298 dated 01/28/2003 and 2003-013137 dated 01/22/2003. The filing date is 01/22/2004.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-5, 7-11 and 13-14 are rejected under 35 U.S.C. 102(e) as being anticipated by Lonnfors et al. (US 6757722 B2), hereinafter referred as Lonnfors.

- a. Regarding claim 1, Lonnfors disclosed a presence system, comprising: a presence service client means for providing presence information of a presentity and for receiving presence information provided by presentities other than said presentity (column 1, lines 53-65: presentity provide information of its presence, watcher obtain

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presence information about other users); a presence service means for receiving presence information of the presentity from the presence service client means and for delivering presence information of the presentities other than the presentity to the the presence service liens means (column 1, line 66-column 2, line 16: watcher subscriber presence information); and a presence calculating means for determining the presence information for said presentity provided by said presence service client means (column 8, lines 8-22: partial presence information change), based on a change in the presence information for the presentities other than said presentity received by said presence service client means (column 11, line 60- column 12, line 13: presence information changes, watcher event-trigger; column 1, lines 54-63: presence information from the presence servers about other users).

- b. Regarding claim 2, Lonnfors disclosed the presence system as set forth in claim 1, wherein said presence calculating means includes a presence change rule storing means for storing a presence change rule that prescribes how the presence information for said presentity is determined based on the presence information for said other presentities other than said presentity (column 11, line 60- column 12, line 13: mode, action, sent in desire manner, associated presence information changes, watcher event-trigger; column 11, lines 16-59: attributes changes specification).
- c. Claims 3-4 has claimed similar limitations as per claims 1-2. The presence information changes for the presentity and other presnetities are not different and governed by the same functionalities as per applicant's specification and Lonnfors. The presence calculation per applicant's as per Lonnfors' watcher on presence

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- information changes are similar for the presentity and other presentites. Claims 3-4 are thus rejected for the same reasons for claims 1-2.
- d. Regarding claim 5, Lonnfors disclosed the presence system as set forth in claim 3, wherein said presentity is a presentity in a group to which said plurality of presentities other than said presentity belong (column 1, lines 12-52: instant message, chat session, video conferencing, willing to receive instant message).
 - e. Regarding claim 7, Lonnfors disclosed the presence system as set forth in claim 1, wherein said presentity issues its own presence to said presence service means (column 1, lines 53-65: a presentity provide information as to its presence).
 - f. Regarding claim 8, Lonnfors disclosed the presence system as set forth in claim 2, wherein said presentity issues its own presence to said presence service means (column 1, lines 53-65: a presentity provide information as to its presence).
 - g. Claim 9 is of the same scope as claims 1-2 and 7. It is rejected for the same reasons as for claims 1-2 and 7.
 - h. Claims 10-11 are of the same scope as claims 1-3 and 5 as claimed to be of a information processing equipment. These are rejected for the same reasons as for claims 1-3 and 5.
 - i. Claims 13-14 are of the same scope as claims 1 and 3 as claimed to be of software implementation. These are rejected for the same reasons as for claims 1 and 3.

Lonnfors disclosed all limitations of claims 1-5, 7-11 and 13-14. Claims 1-5, 7-11 and 13-14 are rejected under 35 U.S.C. 102(e).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 6 and 12 rejected under 35 U.S.C. 103(a) as being unpatentable over Lonnfors and further in view of Salomaki et al. (WO 02/093959 A1), hereinafter referred as Salomaki.

- a. Lonnfors shows claims 3 and 5 as above. Lonnfors does not show explicitly (claim 6) further comprising: a group member managing means for adding, modifying and deleting said presentities belonging to said group. However, Lonnfors does show (Fig. 3, column 8, line 45-column 9, line 38) presence tuple update.
- b. Salomaki shows (pages 37-42) Management of Presence Database, particularly (A.3.12, A.3.13 and A.3.14) for AddPresence, RemovePresence and Dynamice Client Change in an analogous art for the purpose of Mobile Instant Messaging and Presence Service.
- c. It would have been obvious to a person of ordinary skill in the art at the time of the invention was made to explicitly specify presence database management functions as per Salomaki in the presence management as per Lonnfors.
- d. The modification would have been obvious because one of ordinary skill in the art would have been motivated to provide database functions as per Salomaki's in the

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presence management as per Salomaki (page 2, lines 17-28) and Lonnfors (column 3, lines 18-42)'s teaching.

- e. Claim 12 is of the same scope as claims 2-3 and 5-6. It is rejected for the same reasons as for claims 2-3 and 5-6.

Together Lonnfors and Salomaki disclosed all limitations of claims 6 and 12. Claims 6 and 12 are rejected under 35 U.S.C. 103(a).

Response to Arguments

6. Applicant's arguments filed on 05/18/2009 have been fully considered, but they are not persuasive.
 - a. Applicant has amended and argued the limitation of "based on a change in the presence information for the presentities other than said presentity" (see paragraph 3 on page 19 through paragraph 2 on page 20 of current amendment). Examiner has reviewed the limitation in light of applicant's specification, e.g. paragraph 2 of applicant's published specification on using as trigger a change occurring in presence information for other presentity. Examiner has searched and found in Lonnfors (column 11, line 60 through column 12, line 13: using watcher event-trigger on presence information changes and actions based on one or more presence tuple elements and (column 1, lines 53-65) watcher applications implemented to obtain presence information from the presence servers about other users. Lonnfors does disclose the argued limitation.
 - b. Examiner has further searched and identified two prior arts on the general art of presence management, i.e. Kapoor and Yoakum (see section 7 below).

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Remarks

7. The following pertaining arts are discovered and not used in this office action. Office reserves the right to use these arts in later actions.

- a. Kapoor et al. (US 7454459 B1) Method and apparatus for implementing a real-time event management platform
- b. Yoakum et al. (US 7139797 B1) Presence information based on media activity

Conclusion

8. THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Refer to the enclosed PTO-892 for details.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Peling A. Shaw whose telephone number is (571) 272-7968. The examiner can normally be reached on M-F 8:00 - 4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William C. Vaughn can be reached on (571) 272-3922. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

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applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/P. A. S./

Examiner, Art Unit 2444

/William C. Vaughn, Jr./

Supervisory Patent Examiner, Art Unit 2444